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OFFICE OF PETITIONS

Merck
Patent - Docket - RY 60-30
126 East Lincoln Avenue
Rahway NJ 07065-0907

In re Patent of Vermeij	:	DECISION ON REQUEST
Patent No. 8,025,884	:	FOR
Issue Date: September 27, 2011	:	RECONSIDERATION OF
Application No. 10/587,067	:	PATENT TERM ADJUSTMENT
Filed: November 5, 2008	:	
Attorney Docket No. I-2004.001 US	:	

This is a decision on the petition filed on October 28, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred ninety-nine (799) days.

The petition under 37 CFR 1.705(d) is **DISMISSED**.

The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of Monday, July 24, 2006, not July 20, 2006, as patentees assert. Per 35 U.S.C. 371(f), at the express request of the applicant, the national stage of processing may be commenced at any time at which the application is in order for such purpose and the applicable requirements of subsection (c) of this section have been complied with. 35 U.S.C. 371(c)(4) requires an oath or declaration of the inventor (or other person authorized under chapter 11 of this title) complying with the requirements of section 115 of this title and with regulations prescribed for oaths or declarations of applicants.


While early processing was requested, early processing requirements were not met. The oath/declaration was filed on November 5, 2008.

The earliest claimed priority date is January 22, 2004. Because the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on Saturday, July 22, 2006, the period expired on the subsequent business day, Monday, July 24, 2006. See PCT Rule 80.5. Accordingly, the commencement date is Monday, July 24, 2006. The over three year period begins on July 25, 2009 and ends on September 27, 2011, the date of issuance of the patent, and is 795 days.

Accordingly, no changes to the patent term adjustment will be made. It remains 795 days -- 281 days of A delay + 795 days of B delay - 281 days of overlap - 0 days of Applicant delay.

The Office acknowledges receipt of the \$200.00 fee under 37 CFR 1.18(e). This fee is required and will not be refunded.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions